

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-01180

COUNSEL: NONE

FEB 12 1999

HEARING: NO

The applicant requests that his honorable discharge be changed to a medical discharge. Applicant's submission is at Exhibit A.

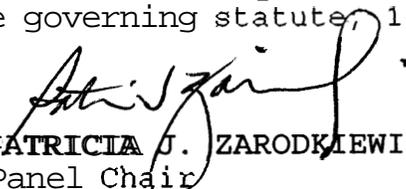
Pursuant to the Board's request, the Federal Bureau of Investigation, Washington, D. C., provided a copy of an investigation report, which is attached at Exhibit C.

The appropriate Air Force offices evaluated applicant's request and provided advisory opinions to the Board recommending the application be denied (Exhibit D). The advisory opinions were forwarded to the applicant for review and response (Exhibit E). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinions appear to be based on the evidence of record and have not been rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record. Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Ms. Patricia J. Zarodkiewicz, Mr. William H. Anderson, and Mr. Joseph A. Roj considered this application on 11 February 1999 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.


PATRICIA J. ZARODKIEWICZ
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. FBI Report
- D. Advisory Opinions
- E. AFBCMR Ltr Forwarding Advisory Opinions

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE, TEXAS

28 Jul 98

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPD
550 C Street West Ste 06
Randolph AFB TX 78150-4708

SUBJECT: Application for Correction of Military Records [REDACTED]
[REDACTED]

REQUESTED ACTION: Applicant requests that his Air Force personnel records correctly reflect that his honorable discharge reflect he was discharged under "medical conditions."

FACTS: Applicant was involuntarily relieved from active duty for physical disability under the provisions of AFM 35-4, Chapter 9, for a condition that existed prior to service (EPTS). At the time of his disability discharge on 19 Jul 61, he had completed one month and twenty-five days of active duty. It appears that the applicant's goal is to establish eligibility to receive medical benefits from the Department of Veterans Affairs (DVA). Member's application is considered untimely under the statute of limitations.

DISCUSSION: The purpose of the military disability system is to maintain a fit and vital force by separating members who are unable to perform the duties of their office, grade, rank or rating. Members who are separated or retired for reason of physical disability may be eligible, if otherwise qualified, for certain disability compensations. Eligibility for disability processing is established by a Medical Evaluation Board (MEB) when that board finds that the member may not be qualified for continued military service. The decision to conduct an MEB is made by the medical treatment facility providing care to the member.

A careful review of the AFBCMR case file revealed that the member was hospitalized on 2 Jun 61 at the Lackland AF Hospital after completing approximately three weeks of basic training. Applicant complained of headaches, dizziness, associated with frequent heat exhaustion following his inoculations for smallpox and two other shots on 31 May 61. The patient stated that the headache and dizziness and frequent head exhaustion had occurred some fifteen times during the past four to five years. The final diagnoses for his hospitalization consisted of vaccinia, generalized; heat stroke susceptibility, and streptococic sore throat. The medical conditions for the diagnoses vaccinia, generalized and streptococic sore throat were considered in line of duty however, the diagnosis for heat stroke susceptibility was considered to be an EPTS condition. Subsequently, the member was found unfit for continued active duty for heat stroke susceptibility and medically discharged on 19 Jul 61. The medical aspects of this case are fully explained by the Medical Consultant.

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Under the provisions of Title 10, USC, the services may only compensate members for disabilities "incurred while entitled to basic pay." Further, if the service is found to have permanently worsened a pre-existing condition, the military may compensate the member however, only for the degree of permanent aggravation above and beyond the natural progression of the disease. The member's medical EPTS condition was not permanently aggravated by his brief service and does not qualify him for physical disability compensation under the provisions of Title 10, USC, Chapter 61.

The member's statement that he was told to sign some type of medical waiver which may have supposedly waived and affected his "federal benefits" cannot be substantiated. No such waiver was included in with the member's records.

A thorough review of the AFBCMR case file reflects that he was appropriately found unfit for continued military service and properly rated under federal disability rating guidelines. We find no errors in the member's record that would warrant a change to his records.

RECOMMENDATION: We recommend denial of the applicant's request. The member has not submitted any material or documentation to show he was inappropriately rated or processed under the military disability evaluation system at the time of his disability discharge. Questions concerning the member's DD Form 214 should be deferred to the appropriate office of primary responsibility.


STEPHEN J. CHMIOLA, Colonel, USAF
Chief, Physical Disability Division
Directorate of Pers Prog Management

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9 July 1998
98-01180

MEMORANDUM FOR AFBCMR

FROM: BCMR Medical Consultant
1535 Command Drive, EE Wing, 3rd Floor
Andrews AFB MD 20762-7002

SUBJECT: Application for Correction of Military Records
[REDACTED]

Filing of this application was not accomplished in a timely manner, 37 years having passed since the applicant was discharged from the Air Force.

Applicant's entire case file has been reviewed and is forwarded with the following findings, conclusions and recommendations.

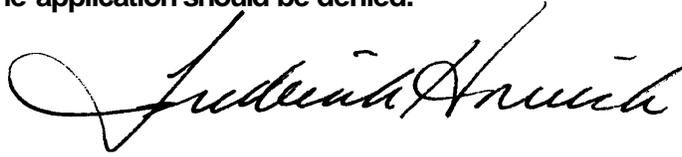
REQUESTED ACTION: The applicant was separated with a medical condition that was determined to have existed prior to service (EPTS), namely propensity to heat exhaustion/stroke, on 19 July 1961 after serving only 1 month and 25 days in basic training. He applies now to change his honorable discharge to a medical discharge.

FACTS: The applicant started BMT on 25 May 1961 and was admitted to the hospital on 2 June 1961 with fever and what was diagnosed as heat stroke. Coincidentally, he had received several immunizations and a smallpox vaccination on 31 May and subsequently developed a generalized vaccinia reaction with widespread pustular lesions as normally found at the primary vaccination site. In the course of taking the medical history, it was revealed that the applicant had problems with heat regulation over previous 4-5 years, having experienced some 15 episodes of heat exhaustion in that period of time. He related that he had never been able to work outdoors in summer months. He remained hospitalized the entire month of June 1961 and was afebrile for the last two weeks of hospitalization, slowly resolving his vaccinia lesions. He was referred for EPTS separation which occurred as noted above.

DISCUSSION: The applicant's history of heat intolerance was the basis for determining the EPTS nature of his condition and the recommendation for separation after his short term in BMT. Interestingly, the applicant had served in the New York Army National Guard from January 1957 to January 1960, and available records do not indicate heat-related problems in that period. The generalized spread of the applicant's smallpox vaccination undoubtedly played a part in his hospitalization considering the timing of vaccination and onset of fever within a couple of days of receiving the vaccine. However, the incriminating history of the applicant's inability to work outdoors in summer months and numerous episodes of prior heat exhaustion were paramount in determining his unsuitability for continued military service. Evidence of record shows that the applicant was properly evaluated and discharged for a condition that was disqualifying for service and which preexisted his entry to the military. Because the condition was EPTS, the applicant was not eligible for disability consideration at separation or later compensation through the Department of Veterans Affairs. As an honorably discharged veteran, however, the applicant has been eligible for medical care through the DVA, although without availability of disability benefits for his brief service time.

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RECOMMENDATION: The BCMR Medical Consultant is of the opinion that no change in the records is warranted and the application should be denied.

A handwritten signature in black ink, appearing to read "Frederick W. Hornick". The signature is written in a cursive style with a large initial 'F'.

**FREDERICK W. HORNICK, Col., USAF, MC, FS
Chief Medical Consultant, AFBCMR
Medical Advisor SAF Personnel Council**

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